

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
August 10, 2009

**D054894    People v. Tran**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.  
(Cal. Rules of Court, rule 8.316.)

**D055047    In re Anthony N., a Juvenile**

The appeal is dismissed.  
Huffman, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

Court convened at 9:00 a.m.

Present:     The Honorable Richard Huffman, Acting Presiding Justice, and  
              The Honorable Associate Justices James McIntyre and Joan Irion  
Clerk:        M. Hubbard

**D054778    In re M. L., a Juvenile**

Cause called on merits. Hassan Gorguinpour, Esq. argued for appellant.  
Gary Seiser, Esq., Deputy County Counsel, argued for respondent.  
Mr. Gorguinpour replied. Cause submitted.

**D053170    People v. Tillory**

Cause called on merits. Patrick Ford, Esq. argued for appellant.  
Christopher Beesley, Esq., Deputy Attorney General, argued for respondent.  
Mr. Ford replied. Cause submitted.

**D053411    Fashion Valley Mall, LLC v. County of San Diego**

Cause called on merits. Stephen Davis, Esq. argued for appellant.  
Walter De Lorrell, III, Esq. argued for respondent. Mr. Davis replied.  
Cause submitted.

**D053946    McKenzie v. Morgan Stanley & Co. et al.**

Cause called on merits. Scott Bertzyk, Esq. argued for appellant.  
Mark Crawford, Esq. argued for respondent. Mr. Bertzyk replied.  
Cause submitted.

Court recessed at 10:17 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
August 10, 2009 (Continued)

**D054625     People v. Duran**

The judgment is modified to stay execution of the sentences imposed on counts 4 and 5, pursuant to section 654. The trial court is directed to prepare an amended abstract of judgment reflecting this change and to deliver the amended abstract of judgment to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., McDonald, J.

Court reconvened at 1:34 p.m.

Present:     The Honorable Patricia Benke, Acting Presiding Justice, and  
              The Honorable Associate Justices Richard Huffman and James McIntyre  
Clerk:        M. Hubbard

**D055122     People v. Jimenez**

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant. Kevin Kim, Certified Law Student with the Attorney General, argued for respondent. Ms. Harguindeguy replied. Cause submitted.

Court recessed at 2:16 p.m. until Tuesday, August 11, 2009 at 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
August 11, 2009

- D055108     In re P.H., a Juvenile**  
The appeal is dismissed. McConnell, P.J.; We Concur: Huffman, J., Irion, J.
- D054255     In re S.E., a Juvenile**  
The judgment is affirmed.  
Aaron, J.; We Concur: McIntyre, Acting P.J., O'Rourke, J.
- D053724     People v. Balderree**  
The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., Nares, J.
- D055110     In re Aryana W.S., a Juvenile**  
The appeal is dismissed.  
Haller, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.
- D053189     People v. Joyner**  
The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Huffman, J.
- D055605     Castiglione v. Superior Court of San Diego County/Kriebel**  
The petition is denied.
- D055599     In re James on Habeas Corpus**  
The petition is denied without prejudice to re-filing in San Diego County Superior Court, 220 West Broadway, San Diego, California 92101.
- D055589     Cosby v. Superior Court of San Diego County/People**  
The petition is denied.
- D055483     Kathy P. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**  
The attorneys for petitioners Bill E. and Kathy P. have notified the court that petitions for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.
- D055526     T.H. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**  
The attorneys for petitioners Edward H. and T.H. have notified the court that petitions for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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August 11, 2009 (Continued)

**D055525     Matthew G. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**  
The attorneys for petitioners Matthew G. and Crystal G. have notified the court that petitions for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D055413     In re Smith on Habeas Corpus**  
The petition is denied.

Court convened at 1:30 p.m.

Present:     The Honorable Patricia Benke, Acting Presiding Justice, and  
                 The Honorable Associate Justices Richard Huffman and Joan Irion  
Clerk:        M. Hubbard

**D054086     ePlus Group, Inc. v. Banc of America Leasing & Capital, LLC**  
Cause called on merits. Michael Geltner, Esq. argued for appellant.  
John Wilburn, Esq. argued for respondent. Mr. Geltner replied. Cause submitted.

**D054257     In re G.L., a Juvenile**  
Cause called on merits. Christy Peterson, Esq. argued for appellant.  
Carl Fabian, Esq. argued for minor. Lisa Maldonado, Deputy County Counsel, argued for respondent. Ms. Peterson replied. Cause submitted.

Court recessed at 2:57 p.m. to change panel members.  
New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and  
The Honorable Associate Justices James McIntyre and Joan Irion

**D054020     J.O. v. M.E.**  
Cause called on merits. Margaret Edwards argued in pro per. Cause submitted.

Court recessed at 3:21 p.m. until Wednesday, August 12, 2009 at 9:00 a.m.

**D055489     Brown v. Superior Court of Imperial County/People**  
At the request of petitioner, the petition for writ of mandate is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D054534    In re Terrance D. et al., Juveniles**

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Haller, J.

**D055154    People v. Plummer**

The judgment of conviction is affirmed.

Benke, Acting P.J.; We Concur: Huffman, J., McIntyre, J.

**D054709    In re Patrick B., a Juvenile**

The judgment is affirmed.

Huffman, Acting P.J.; We Concur: Haller, J., McIntyre, J.

**D054682    Malek Investments, LLC v. Belanich et al.**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).) Each party to bear own costs on appeal.

Court convened at 9:03 a.m.

Present:     The Honorable Judith Haller, Acting Presiding Justice, and  
               The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron  
Clerk:        M. Hubbard

**D053123    People v. Smith**

Cause called on merits. Courtney Shevelson, Esq. argued for appellant.

Gary Brozio, Esq. argued for respondent. Mr. Shevelson replied. Cause submitted.

**D053982    Doe v. Brown**

Cause called on merits. Laura Arnold, Esq. argued for appellant. Joy Utomi, Certified law student with the Attorney General, argued for respondent.

Ms. Arnold replied. Cause submitted.

Court recessed at 10:01 a.m. to change panel members.

New panel members: The Honorable Judith McConnell, Presiding Justice, and  
The Honorable Associate Justices Judith Haller and Alex McDonald

**D053410    Ennen et al. v. Chichi et al.**

Cause called on merits. Wayne Hunkins, Esq. argued for appellant.

Daniel Nassie, Esq. argued for respondent. Mr. Hunkins replied. Cause submitted.

Court recessed at 10:26 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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August 12, 2009 (Continued)

- D055227     Woods II v. Superior Court of San Diego County/People**  
The petition is denied. The motion for dismissal is denied.
- D055656     United Services Automobile Association v. Superior Court of San Diego  
County/Henry**  
The petition is denied.
- D054682     Malek Investments, LLC v. Belanich et al.**  
Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).) Each party to bear own costs on appeal.
- D053361     People v. Baldwin**  
The judgment is modified by staying the sentences on counts two (§470, subd. (d)) and three (§476) in case No. SCS208604. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.  
O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.
- D054372     In re S.M., a Juvenile**  
The findings and orders are affirmed.  
Irion, J.; We Concur: O'Rourke, Acting P.J., Aaron, J.
- D055414     Thomas v. Superior Court of Imperial County/People**  
The petition and accompanying motion are denied.
- D055545     In re Rayshon Thomas on Habeas Corpus**  
The petition is denied.

Court reconvened at 1:30 p.m.

Present:     The Honorable Judith McConnell, Presiding Justice, and  
                 The Honorable Associate Justices Judith Haller and Terry O'Rourke  
Clerk:        M. Hubbard

- D054592     In re Patricia Johnson on Habeas Corpus**  
Cause called on merits. Kathleen Frey, Deputy Attorney General, argued for appellant. Matthew Braner, Deputy Public Defender, argued for respondent. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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August 12, 2009 (Continued)

**D054002    Encarnacion v. Seaton**

Cause called on merits. Ali Seaton argued in pro per. Cause submitted.

**D053367    Gold v. City of San Diego**

Cause called on merits. Frank Clowney, Esq. argued for appellant.  
Lupe Rodriguez, Esq. argued for respondent. Mr. Clowney replied.  
Cause submitted.

**D050667    Pauma Band of Luiseno Mission Indians v. Harrah's Operating Co., Inc., et al.**

Cause called on merits. Brad Pauley, Esq. argued for appellant.  
David Niddrie, Esq. argued for respondent. Mr. Pauley replied.  
Mr. Niddrie replied. Cause submitted.

Court recessed at 3:06 p.m. to change panel members.

New panel members: The Honorable Judith McConnell, Presiding Justice, and  
The Honorable Associate Justices Judith Haller and Cynthia Aaron.

**D053525    Jentz et al. v. City of Chula Vista**

Cause called merits. John Lemmo, Esq. argued for appellant. Mark Dillon, Esq.  
argued for respondent. Mr. Lemmo replied.

Court recessed at 3:48 p.m. until Thursday, August 13, 2009 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D052883     People v. Cruz**

It is ordered that the opinion filed herein on July 17, 2009, be modified. There is no change in judgment. Appellant's petition for rehearing is denied.

**D055412     In re Hodge on Habeas Corpus**

The petition and accompanying motions are denied.

**D055476     In re Smith on Habeas Corpus**

The petition is denied.

Court convened at 9:03 a.m.

Present:     The Honorable Judith McConnell, Presiding Justice, and  
                 The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron  
Clerk:        M. Hubbard

**D054015     Shoal et al. v. The Lucidi Family Partnership et al.**

Cause called on merits. Margaret Pitchkolan, Esq. argued for appellant.  
Regan Furcolo, Esq. argued for respondent. Ms. Pitchkolan replied.  
Cause submitted.

**D052463     Dietz v. Meisenheimer Herron & Steele et al.**

Cause called on merits. Stephen Hogan, Esq. argued for appellant.  
Stephen Lopez, Esq. argued for respondent. Mr. Hogan replied. Cause submitted.

**D052483     Abasolo et al. v. Crystal View Technology Corp.**

Cause called on merits. Sharon McLaughlin, Esq. argued for appellant.  
Paul Jackson, Esq. argued for respondent. Ms. McLaughlin replied.  
Cause submitted.

Court recessed at 10:13 a.m. until Friday, August 14, 2009 at 1:30 p.m.

**D052764     Ray v. Maiorano**

The judgment of the trial court is affirmed.  
Aaron, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 13, 2009 (Continued)

**D053813     Muhoberac et al. v. Boyle**

The order is reversed. The trial court is directed to vacate its order and enter an order granting Boyle's motion to compel arbitration of the first through sixth causes of action of Jon Muhoberac and Joanne Conway's complaint. Kenneth Boyle is awarded costs on appeal.  
O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

**D055028     Carolyn P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. The request for a stay is denied.  
Huffman, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D055527     Unico, Inc. v. Superior Court of San Diego County/Sullivan et al.**

The petition is denied.

**D053818     Kutina v. Jauregui**

The petition for rehearing is denied.

**D055387     In re Thomas on habeas Corpus**

The petition and accompanying motions are denied.

**D055328     Clemans, Jr. v. Superior Court of San Diego County/Gardner**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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- D054445     In re Christine M., a Juvenile**  
The order is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McIntyre, J.
- D054041     Herron v. Hess**  
The order is affirmed. Nares, J.; We Concur: Benke, Acting P.J., Haller, J.
- D054506     In re I.T. et al., Juveniles**  
The judgment is affirmed. Irion, J.; We Concur: Haller, Acting P.J., McDonald, J.
- D054274     In re Christian D. et al., Juveniles**  
Judgment affirmed. Aaron, J.; We Concur: Haller, Acting P.J., Irion, J.
- D055365     In re Staffiero on Habeas Corpus**  
The petition is denied.
- D053519     Conservatorship of the Person and Estate of Becerra**  
The petition for rehearing is denied.
- D053603     People v. Martin**  
The judgment shall be modified on count 3 to reflect a conviction of the lesser included offense of misdemeanor vandalism. Further, the trial court is directed to strike or impose the prior prison term enhancements, to amend the abstract of judgment to reflect its sentencing decision and our modification of count 3, and to forward the amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.  
Irion, J.; We Concur: Benke, Acting P.J., McIntyre, J.
- D052127     Ali et al. v. U.S.A. Cab LTD et al.**  
The petition for rehearing is denied.

Court convened at 1:31 p.m.

Present:     The Honorable Patricia Benke, Acting Presiding Justice and  
                 The Honorable Associate Justices James McIntyre and Joan Irion.  
Clerk:        M. Hubbard

- D054077     Airlines Reporting Corporation v. Renda**  
Cause called on merits. Bryan Sampson, Esq. argued for appellant.  
John Freni, Esq. argued for respondent. Mr. Sampson replied. Cause submitted.

Court adjourned at 2:00 p.m.